

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

STEVEN ZAK,
on behalf of C.Z.,

Plaintiff-Claimant,

v.

Case No. 14-C-643

CAROLYN W. COLVIN,
Acting Commissioner of Social Security,

Defendant-Respondent.

DECISION AND ORDER

Plaintiff-Claimant Steven Zak (“Zak”), on C.Z.’s behalf, seeks leave to proceed *in forma pauperis* on the appeal from the denial of the social security supplemental security income (“SSI) claim made C.Z.’s behalf. (ECF No. 4.) In order to authorize a litigant to proceed *in forma pauperis*, the Court must make two determinations: First, whether the litigant is unable to pay the costs of commencing this action; and, second, whether the action is frivolous or malicious. 28 U.S.C. §§ 1915(a) and (e)(2)(B)(i).

By the petition and affidavit to proceed *in forma pauperis*, Zak avers that C.Z. is not employed and currently lives with her mother. She is single and has no dependents. She has no valuable assets and has \$1.00 in cash or in a financial account. Her monthly expenses total \$322, and such expenses are covered by loans from Zak or her mother. The former statement is in tension with Zak’s additional

statement that he, as court appointed guardian provides 100% of the care for C.Z. financially. Regardless, Zak has satisfied the requirements of 28 U.S.C. § 1915(a) and is unable to pay the \$350 filing fee for this action.

Zak must next demonstrate that this action has merit as required by 28 U.S.C. § 1915(e)(2)(B)(i). An action is frivolous if there is no arguable basis for relief either in law or in fact. *Denton v. Hernandez*, 504 U.S. 25, 31 (1992) (quoting *Neitzke v. Williams*, 490 U.S. 319, 325 (1989)); *Casteel v. Pieschek*, 3 F.3d 1050, 1056 (7th Cir. 1993).

Under 42 U.S.C. § 405(g), a plaintiff may obtain review of the Social Security Commissioner's decision. The standard of review that the Court is to apply in reviewing the Commissioner's decision is whether the decision is supported by "substantial evidence." 42 U.S.C. § 405(g); *Jens v. Barnhart*, 347 F.3d 209, 212 (7th Cir. 2003).

The Complaint states a claim that the Commissioner's decision regarding the denial of the application for SSI is not supported by substantial evidence, or is contrary to law. (*See* Compl. ¶ 7.) (ECF No. 1.) At this preliminary stage of the proceedings, the Court concludes that there may be a basis in law or in fact for Zak's appeal of the Commissioner's decision and the appeal may have merit, as defined by 28 U.S.C. § 1915(e)(2)(B)(i). Therefore, the Court grants Zak's request to proceed *in forma pauperis*.

**NOW, THEREFORE, BASED ON THE FOREGOING, IT IS HEREBY
ORDERED THAT:**

Zak's petition for leave to proceed *in forma pauperis* (ECF No. 4) is
GRANTED.

Dated at Milwaukee, Wisconsin, this 20th day of June, 2014.

BY THE COURT:


HON. RUDOLPH T. RANDA
U.S. District Judge